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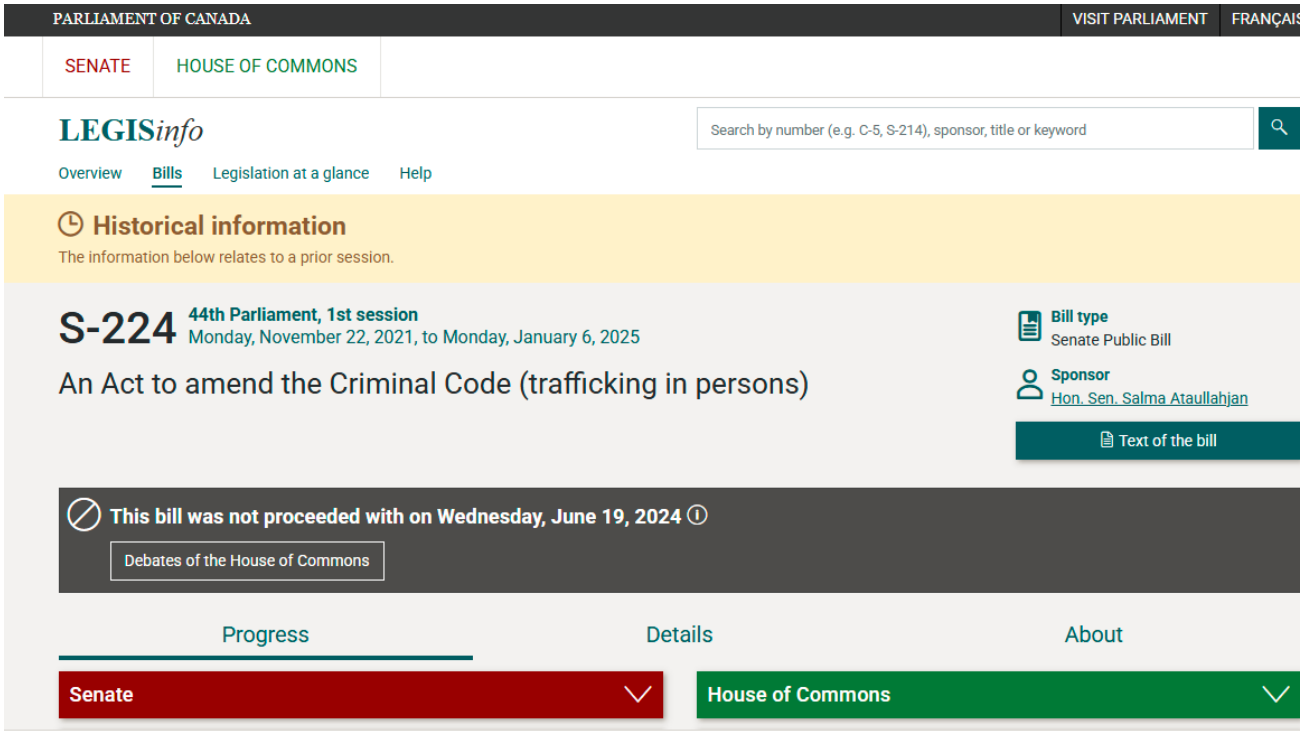
Bill S-224: Lowering The Burden To Prosecute Human Trafficking (Died In Last Session)



Senator Salma Ataullahjan introduced Bill S-224 back in late 2021. It cleared the Senate, and Second Reading in the House of Commons. In fact, it came very close to getting passed.

Put simply, it would have amended the Criminal Code to make it easier for police to lay

charges in cases of suspected human trafficking. It would have removed an element of the offence — fear for one's safety — thus lowering the burden. There was a surprisingly vocal set of opponents fighting against it.

Broadly speaking, "trafficking" would fall into 2 major categories: (a) sex work, such as pornography or prostitution; or (b) forced labour in general. Participants in the 2023 study focused on the former.

******It's true that this Bill died when the last session of Parliament ended. That being said, legislation that doesn't advance is often brought back at later times. This may be one such case.***

What Would Bill S-224 Actually Change?

Exploitation
279.04 (1) For the purposes of sections 279.01 to 279.03, a person exploits another person if they cause them to provide, or offer to provide, labour or a service by engaging in conduct that, in all the circumstances, ***could reasonably be expected to cause the other person to believe that their safety or the safety of a person known to them would be threatened*** if they failed to provide, or offer to provide, the labour or service.

Factors
279.04 (2) In determining whether an accused exploits another person under subsection (1), the Court may consider, among other factors, whether the accused
(a) used or threatened to use force or another form of coercion;
(b) used deception; or
(c) abused a position of trust, power or authority.

The proposed Bill S-224 would remove the requirement that victims fear for their safety if they don't comply with the demands.

Exploitation
279.04 (1) For the purposes of sections 279.01 to 279.03, a person exploits another person if they engage in conduct that

(a) causes the other person to provide or offer to provide labour or a service; and
(b) involves, in relation to any person, the use or threatened use of force or another form of coercion, the use of deception or fraud, the abuse of a position of trust, power or authority, or any other similar act.
(2) Subsection 279.04(2) of the Act is repealed.

Critics claim that taking out that requirement will make it easier for police to charge third parties for the so-called “legitimate” work they may be involved with.

Opposition To S-224 Framed As “Protecting Rights”

CASWLR - Canadian Alliance Of Sex Workers Legal Reform - Against Bill …

Some of the “solutions” being proposed are:

- Reject Bill S-224 in its entirety.
- Decriminalize/legalize sex work.
- Support non-carceral forms of safety, including decent and affordable housing for all, restorative and transformative justice initiatives, and community-based anti-violence programs geared toward preventing gendered violence and supporting survivors.
- Invest in community initiatives run by and for people working in the sex industry that are non directive and based in human rights, and not focused on “exiting” sex work. Programs contingent on people stopping or “exiting” sex work or that have eligibility requirements fail to address the complexity of sex workers’ lives.
- Invest in Indigenous community initiatives, migrant worker community initiatives, and youth based initiatives that furnish people with networks of community support that undercut the precarity and vulnerability that place people in vulnerable situations.
- Ensure full and permanent immigration status for all in Canada, without exception.

Advocates who oppose Bill S-224 are quick to point out that sex work isn’t necessarily exploitative by nature. They then go on to demand housing for all, and immigration status for all.

Bill S-224 Opposed By Ford Government

SUBMISSION TO THE HOUSE OF COMMONS COMMITTEE ON JUSTICE AND HUMAN RIGHTS ON BEHALF OF ONTARIO RE: BILL S-224

Overview of Ontario's Position

Bill S-224 is unnecessary and, if passed, would eliminate the common law advancements made over the past eight years in Ontario, cause uncertainty in the law, and result in protracted constitutional litigation, all of which will have a negative impact on human trafficking prosecutions and public safety.

Ontario has Extensive Experience with the Human Trafficking Provisions

Crown counsel in Ontario have considerable experience with the *Criminal Code* human trafficking provisions in s. 279.01-279.04, both at the trial and appellate levels. Almost all of the appellate caselaw that has interpreted the human trafficking provisions, including the meaning of "exploitation" in this context, has been decided by the Ontario Court of Appeal. Ontario is the only province in Canada that has a specialized team of prosecutors – 15 in total located in every region of the province - who are dedicated to

Bizarrely, one of the strongest opponents is the Ontario Government, currently headed by Doug Ford.

Keep in mind, Ford had no problem spending endless amounts of money a few years back. He sent the police to shut down businesses, enforce stay-at-home orders, mask mandates, vaccine mandates, etc…. But his administration objects to changes of law that would make it easier to pursue human traffickers.

In their brief to Parliament, it's lamented how the inevitable legal challenges would be wasteful, and a poor use of taxpayer money. It's rationalized that because the current laws are constitutional, they don't need to be tweaked.

Overall, this is a very strange hill to die on. One would think that special interest groups would be fighting for *more aggressive* laws to jail such people. Considering the focus on how much exploitation there is in immigrant and poorer communities, wouldn't such changes be welcomed?

Sure, other groups sent in brief in support of S-224, but they're not the concern.

It's worth mentioning that organizations opposing this Bill receive taxpayer subsidies.

(1) https://www.parl.ca/legisinfo/en/bill/44-1/s-224
(2) https://www.parl.ca/DocumentViewer/en/44-1/bill/S-224/third-reading
(3) https://sencanada.ca/en/senators/ataullahjan-salma/
(4) https://www.ourcommons.ca/Committees/en/JUST/StudyActivity?studyActivityId=12111640
(5) https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2/20230612/-1/39495?gefdesc=&startposition=20230612164645
(6) Bill S-224 Brief Butterfly HIV Legal
(7) Bill S-224 Brief CASWLR
(8) Bill S-224 Brief Joint Criminologists
(9) Bill S-224 Brief Ontario Government
(10) Bill S-224 Brief Ontario Native Women
(11) Bill S-224 Brief Vincent Wong
(12) Bill S-224 Brief West Coast LEAF

Private Member Bills In PREVIOUS Session:
(1) Bill C-206: Decriminalizing Self Maiming To Avoid Military Service
(2) Bill C-207: Creating The "Right" To Affordable Housing
(3) Bill C-219: Creating Environmental Bill Of Rights
(4) Bill C-226: Creating A Strategy For Environmental Racism/Justice
(5) Bill C-229: Banning Symbols Of Hate, Without Defining Them
(6) Bill C-235: Building Of A Green Economy In The Prairies
(7) Bill C-245: Entrenching Climate Change Into Canada Infrastructure Bank
(8) Bill C-250: Imposing Prison Time For Holocaust Denial
(9) Bill C-261: Red Flag Laws For "Hate Speech"
(10.1) Bill C-293: Domestic Implementation Of Int'l Pandemic Treaty
(10.2) Bill C-293: Concerns Raised In Hearings Over Food Supplies
(10.3) Bill C-293: Lobbying Interests Behind Nathaniel Erskine-Smith
(11) Bill C-312: Development Of National Renewable Energy Strategy
(12) Bill C-315: Amending CPPIB Act Over "Human, Labour, Environmental Rights"
(13) Bill C-367: Removing Religious Exemptions Protecting Against Antisemitism
(14) Bill C-373: Removing Religious Exemptions Protecting Against Antisemitism 2.0

(15) Bill C-388: Fast Tracking Weapons, Energy, Gas To Ukraine

(16) Bill C-390: Expanding Euthanasia Into PROVINCIAL Frameworks

(17) Bills C-398/C-399: Homeless Encampments, Immigration “Equity”

(18) Bill C-413: Prison Time Proposed For Residential School “Denialism”

(19.1) Bill S-210: Women’s Legal Action & Education Fund

(19.2) Bill S-210: Yukon Status Of Women Council Against Restrictions

(20) Bill S-215: Protecting Financial Stability Of Post-Secondary Institutions

(21) Bill S-243: Climate Related Finance Act, Banking Acts

(22) Bill S-248: Removing Final Consent For Euthanasia

(23) Bill S-257: Protecting Political Belief Or Activity As Human Rights

(24) Bill S-275: Adding “Sustainable And Equitable Prosperity” To Bank Of Canada Act

CANADA, CANADIAN BILLS, HUMAN RIGHTS, IMMIGRATION (CANADA), SUBVERSION, TRAFFICKING, SMUGGLING, CHILD EXPLOITATION